

LABOUR DEPARTMENT

The 1st September, 1972

No. 9735-4 Lab-72/35680.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Technological Institute of Textiles, Bhiwani.—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 4 of 1964

between

THE WORKMEN AND THE MANAGEMENT OF M/S TECHNOLOGICAL INSTITUTE OF TEXTILES, BHIWANI

Present—

Shri Makhan Singh, for the Mazdoor Sabha.

Shri Sagar Ram Gupta, for T.I.T. Karamchari Sangh.

Shri B.R. Ghai and Shri Nathu Mal Jain for the management.

AWARD

The workmen of M/s Technological Institute of Textiles, Birla Colony, Bhiwani, raised a demand for payment of Bonus for the year 1962-63 equal to their consolidated wages for 4 months. The management did not accept this demand whereupon conciliation proceedings were commenced. While conciliation proceedings were still pending the management declared Bonus at 10 per cent of the basic wages of the workmen. The T. I. T. Karamchari Sangh and the Mazdoor Sabha, Bhiwani who had given the demand notices separately raised strong protest against this declaration of the management. The dispute was ultimately referred by the Government for adjudication, in exercise of the powers conferred under clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, vide Order No. 1510-III-Lab-I-64/3172 dated 6th February, 1964, the term of reference being as given under :—

Whether the workers are entitled to the grant of bonus for the year 1962-63? If so, what should be its quantum and terms and conditions for its payment?

On receipt of the order of reference, usual notices were given to the parties. The workmen filed their statements of claim reiterating the aforesaid demand with the allegations that the respondent Mills was a well established concern and had made huge profits during the year 1962-63 and as such their above demand for bonus was fully justified. In the written statement filed on behalf of the management, the above allegations were controverted and the claim of the workmen was contested. It was further pleaded that the workmen having already entered into a settlement with the management according to which Bonus had been paid to them at 10 per cent of their basic wages, the reference was invalid and without jurisdiction.

On the pleadings of the parties the following issues arose for determination:—

- (1) Is the reference invalid and without jurisdiction for the reason given in paragraph 10 of the written statement?
- (2) Whether the workers are entitled to the grant of bonus for the year 1962-63? If so, what should be its quantum and terms and conditions for its payment?

A number of witnesses were examined on both sides besides bringing on record numerous documents. Issue No. 1 which was treated as preliminary issue was decided against the management vide order dated 12th May, 1965 holding that the alleged settlement was no settlement in the eye of law and as such the plea of the management that the reference was invalid and without jurisdiction had no force.

On issue No. 2, the evidence adduced by the parties consisted mainly of the statements of two witnesses A.W. 6 Shri Narain Parshad, the then Accountant of the T.I.T. Mills, Bhiwani, examined by the workmen and R.W. 1 Shri K.L. Munga Estimator M/s Desai and Kakar Architects, Delhi. Shri Narain Parshad A.W. 6 proved as many as 28 documents, namely, statement of manufacturing expenses for the year ended 30th June, 1963 Ex. A.W. 6/1, Statement of detailed figures of bonus for the previous year paid during the year 1962-63 Ex. A.W. 6/2, Statement of selling expenses for the year ended 30th June, 1963 Ex. A.W. 6/3, statement of break up figures of wages and salaries paid during the year 1962-63 Ex. A.W. 6/4, statement of Provident Fund and E.S.I. contribu-

tion and expenses for the year ended 30th June, 1963 Ex. A.W. 6/5, details of staff and labour, welfare expenses during the accounting year 1962-63 Ex. A.W. 6/6, statement of establishment and other expenses for the year ended 30th June, 1963 Ex. A.W. 6/7, details of building repairs during the year 1962-63 Ex. A.W. 6/8, statement of interest paid for the year ended 30th June, 1963 Ex. A.W. 6/10, of account of Coal and Cinder during the accounting year 1962-63 Ex. A.W. 6/11, details of posting of closing stock of Yarn on 30th June, 1963 Ex. A.W. 6/12, details of fixed fund account during the accounting year 1962-63 Ex. A.W. 6/13, trial balance as on 30th June, 1963 Ex. A.W. 6/14 statement of raw material Stores and spare parts for the year ended 30th June, 1963 Ex. A.W. 6/15, balance sheet on 30th June, 1963 Ex. A, depreciation accounts for the year 1962-63, Ex. B and for the years 1954 to 1961, Ex. C to K, Birla Education Trust Pilani Account No. 2 for the period from 1st July, 1962 to 30th June, 1963, Ex. L, statement of amounts other than depreciation employed in business as working capital during the year 1962-63 Ex. L.I. Shri K.L. Munga R.W.1 did not refer to any document. Bonus Calculation Charts were also produced on both sides.

Issue No. 2 was found in favour of the workmen and the award was accordingly made by Shri K.L. Gosain, the then Presiding Officer of the Industrial Tribunal, Haryana at Chandigarh on 25th November, 1967 with the direction that the management shall pay to the workmen Bonus for the year 1962-63 at the rate of 40 per cent of the basic wages earned by each of the workmen, however, not exceeding his total wages for 4 months as claimed in the demand notice.

Feeling aggrieved, the management preferred an appeal. By order dated 8th March, 1972 Hon'ble the Supreme Court has been pleased to allow the appeal, set aside the award and remand the case for making a fresh award after allowing opportunity to both the parties to lead additional evidence, oral as well as documentary on Issue No. 2, Issue No. 1 having not been pressed by the management. The parties have led considerable evidence after the remand of the case. The management has examined as many as 9 witnesses mostly its employees including Sarvshri Narain Parshad now Finance Officer M.W. (R) 1, B.R. Kolkar Chief Engineer, M.W. (R) 2, M.C. Bakliwal Weaving Superintendent M.W. (R) 3, Loui Fernandes Spinning Superintendent. M.W. (R) 4, N.A. Vaishno Processing Superintendent M.W. (R) 5, Teja Singh Architect Chartered Engineer New Delhi 5, M.W. (R) 6, Ram Lal Rajgaria Joint Store Keeper M.W. (R) 7, Purshotam Jalan Accountant M.W. (R) 8 and Shri N.M. Jain, Factory Manager M.W. (R) 9. These witnesses have also produced documents, namely, Income Tax Calculation for the year 1962-63 Exhibit M.W. (R) 1/1, details of Rs. 1,39,093.86 shown in the income expenditure for the year 1962-63 Exhibit M.W. (R) 1/2, naqal Jamakharch page 522 for the year 1962-63 Exhibit M.W. (R) 1/3, list of machines (Engine Department) Exhibit M.W. (R) 2/1, list of machines (Weaving Department) Exhibit M.W. (R) 3/1, list of machines (Folding Department) Exhibit M.W. (R) 3/2, List of machines (Spinning Department) Exhibit M.W. (R) 4/1, list of machineries (Processing Department) Exhibit M.W. (R) 5/1, report on assessment of replacement costs in 1963 and expected future life of the building belonging to T.I.T. Mills, Bhiwani, M.W. (R) 6/1, file containing quotations Exhibit M.W. (R) 7/1, statement showing prices of machines during 1962 to 1965 Exhibit M.W. (R) 7/2, details of machineries installed during the year 1954 to 1961 Exhibit M.W. (R) 7/3 details of machineries installed before June, 1954 Exhibit M.W. (R) 7/4, letter dated 23rd December, 1966 from M/s Associated Textile Engineers 43 Forbes Street Fort Bombay-1 to M/s Bhiwani Textile Mills, Bhiwani, Exhibit M.W. (R) 7/5, letter dated 12th May, 1967 from M/s Texmaco Textile Machinery Corporation Ltd., Belgharia to M/s T.I.T. Mills Bhiwani Exhibit M.W. (R) 7/6, statement of spare parts consumed during the year 1962-63 Exhibit M.W. (R) 7/7, issue registers of the stores department T.I.T. Mills, Bhiwani, Exhibit M.W. (R) 7/8 to Exhibit M.W. (R) 7/19, statement of amounts required for rehabilitation of plant and machinery for the year 1962-63 Exhibit M.W. (R) 8/1, statement of amounts required for rehabilitation of plant and machinery for the year 1962-63 Exhibit M.W. (R) 8/2, summary of block additions from 1951-52 to 1962-63 Exhibit M.W. (R) 8/3, details of depreciation during the year from 1951-52 to 1963-64 Exhibit M.W. (R) 8/4, letter No. 8 dated 4th July, 1972 from the United Commercial Bank 384 Chandni Chowk, Delhi to M/s T.I.T. Mills, Bhiwani, regarding the rate of interest Exhibit M.W. (R) 8/5, copy of letter dated 28th of June, 1972 from M/s T.I.T. Mills Bhiwani to the United Commercial Bank Delhi Exhibit M.W. (R) 8/6, statement showing additions to buildings and plants and machinery after 1962-63 Exhibit M.W. (R) 8/7, statement of block additions from 1961-62 to 1970-71 Exhibit M.W. (R) 8/8, statement of amounts required for rehabilitation of factories, Offices, Stores, and Canteen buildings for the year 1962-63 Exhibit M.W. (R) 9/1, statement of amounts required for rehabilitation of residential buildings for the year 1962-63 Exhibit M.W. (R) 9/2, statement of machines with their years of installations as on 1st April, 1964, statement of buildings with their replacement costs, Statement showing the amount of rehabilitation reserves required to be provided per year which were already on record but have been proved from the statement of Shri N.M. Jain, Factory Manager after the remand of the case and have been exhibited as M.W. (R) 9/3 to Exhibit M.W. (R) 9/5 respectively, details of Factory buildings M.W. (R) 9/6.

On the other hand, the workmen have examined 10 witnesses in all after the remand of the case, W.W. (R) 1 Shri Atma Ram Chaudhary Assistant Finance Officer of Birla Education Trust Pilani who has produced some documents including Assessment report for the year 1964-65 of Birla Education Trust Calcutta Exhibit W.W. (R) 1/1 dated 4th September, 1965, Assessment report for the year 1964-65 in respect of Birla Education Trust Calcutta Exhibit W.W. (R) 1/2 dated 10th September, 1965, Return of Income Tax under section 139 (3) in respect of Birla Education Trust Calcutta for the year ended 30th June, 1961 Exhibit W.W. (R) 1/3, dated 21st July, 1962, letter from Birla Education Trust Calcutta to Income Tax Officer Calcutta dated 21st July, 1962 regarding refund of Income Tax for the period ended 30th June, 1961 Exhibit W.W. (R) 1/4, copy of the purchases deed dated 12th April, 1943 registered on 21st April, 1943 Exhibit W.W. (R) 1/5, copy of order dated 6th September, 1969 of the Appellate Assistant Commissioner of Income Tax D-Range, Calcutta Exhibit W.W. (R) 1/6.

The other witnesses examined by the workmen are Shri Sagar Chand Jain Ex-Clerk-cum-Time Keeper W.W. (R) 2, Kishori Lal Double Sider W.W. (R) 3, Husadi of Dying Department W.W. (R) 7, Dhan Bahadur Machineman Flying Frame Department W.W. (R) 8, Dharam Chand Helper Ring Department (All Employees of the T.I.T. Mills, Bhiwani), Shri Ganesh Dutt Municipal Commissioner and Ex Workman of T.I.T. Mills, Bhiwani W.W. (R) 4, Shri Harbans Singh, President, Industrial Workers Union, Bhiwani W.W. (R) 5, Randhir Singh Building Contractor Bhiwani W.W. (R) 6, Shri Sishu Ram Weaver Bhiwani Textile Mills Bhiwani W.W. (R) 10. Fresh bonus computation charts have also been filed by the parties.

The case has been well argued on both sides and I have been taken through the entire evidence produced before and after the remand of the case. I have given a very considered thought to the facts on record and the arguments advanced by the learned representatives of the parties. I have also very carefully gone through the case law cited by them.

As would be clear from the facts stated above, Bonus in the instant case has been claimed for the accounting year 1962-63 before the Payment of Bonus Ordinance of 1965 was promulgated. The question involved has, therefore, to be decided in accordance with the Bonus Formula laid down by the Labour Appellate Tribunal in the Mills Owners case 1952-F. R-107 which has been approved and further elucidated by their Lordships of the Supreme Court in a number of cases. There is no dispute about this fact. According to this Formula certain amounts on account of depreciation, rehabilitation, 6 per cent return on Paid Up Capital, about 4 per cent return on the reserves used as Working Capital and Taxes claimed by the management as prior charges have to be deducted from the gross profits to arrive at the available surplus out of which a reasonable share has to be awarded as bonus to the workmen. At the same time amounts not allowable but shown as expenses by the management, amounts related to the efforts of the workmen but treated as extraneous income, and excess estimated expense of various types etc. have to be added back to arrive at the correct allocable surplus.

It is common ground between the parties in the present case that the amount of profits as shown in the balance sheet Exhibits 'A' produced by the management for the year in question was Rs. 13,07,333.20 and they are further agreed that the following amounts have to be added back.

(i) Provision for Contingencies	.. 1,75,000.00
(ii) Depreciation	.. 4,84,113.00
(iii) Development Rebate	.. 2,27,663.00
(iv) Item pertaining to last year	.. 48,109.00

The total after the addition of the aforesaid amounts to the profit as shown in the balance sheet would come to Rs. 22,42,218.00. As for the amounts which have to be further added back according to the workmen and the amounts which have to be deducted on account of prior charges by the management, there is much dispute between the parties and it would be worth-while to take up each and every item separately.

The workmen have sought the following items to be further added back which is strongly disputed by the management.

1. *Provision for purchases of Export quota Rights.* (Rs. 1,39,093.86).—Under the scheme of Compulsory Export of Cotton Textiles introduced by the Central Government some time before 1962 the export obligation of every mill was to be 12½ per cent of its turn over of cloth and 3 per cent of the turn over of Yarn with reference to the Balance sheet of any accounting year. The scheme further provided that this obligation could be fulfilled by a mill by exporting its own product in full or in part and/or by arranging with other mills to export the balance. The contention put forward on behalf of the management in the instant case is that since it was not manufacturing the cloth/yarn of the requisite specifications it was not in a position to fulfil the above obligation itself and arrangement had therefore been made in this behalf through several other mills including the Delhi Cloth and General Mills Delhi, the New Parlad Mills Bombay, the Anglo French Textile Mills Pondicherry, M/s Gansham Dass Churiwala Bombay, Bombay Dyeing and Manufacturing Company Ltd., Bombay, Kanti Cotton Mills (P) Ltd., Surinder Nagar, Mahalaxmi Cotton Mills Bombay, etc., and a sum of Rs. 1,39,093.86 had to be paid by way of commission to these mills as details given in Exhibit M.W. (R) 1/2. There is, however no cogent and convincing evidence to show that this item of expenditure in fact related to the export obligation of or was incurred during the year in question 1962-63. From the statement of Shri Narain Parshad Finance Officer, of the mills examined as M.W. (R) 1, it is rather proved that the cloth/yarn may not actually have been exported in this year. In the absence of conclusive evidence on the point this item of expenditure can not be considered to have been incurred during this particular year merely because a provision had been made by the management for this amount to be spent later on. No documents of the said other mills have been brought on record to prove that they had actually fulfilled the above export obligation on behalf of the T.I.T. Mills Bhiwani for the year 1962-63. In the circumstances, the amount has got to be added back as claimed by the workmen.

2. *College and Higher Secondary School Expenses* (Rs 1,98,145.00).—It is common ground between the parties that the T.I.T. Mills belongs to a Charitable Trust created by the family of the Birlas for the purpose of imparting technical education and the college and the school are being run along with the Mills by the said Chari-

table Trust. The contention raised on behalf of the workmen is that they have nothing to do with the college or the school and as such their share of the profits can not be diverted towards defraying the college and school expenses. According to them the profit bonus should be calculated on the basis of the entire profits and not by deducting the college and school expenses. The contention has no force for the simple and obvious reason that the T.I.T. Mills and the college and the school which are run by the Charitable Trust called the Birla Education Trust have to be taken as a single unit and the profits have to be taken into account after defraying all the expenses. I, therefore, do not see any reasonable ground for adding back this amount.

3. *Not allowable amounts included in salaries and wages.*—The learned representative of the workmen have contended that a sum of Rs 6,28,680.00 has been wrongly included by the management under this head. It has been argued that the amount includes Rs 475 on account of the wages for the past year, Rs 1,43,205.00 pertaining to bonus for the previous year and Rs 1,00,000 paid by way of arrears to the clerical staff under the Wage Board agreement. It has further been urged that on account of malafide and wrong debits made by the management and necessary details not furnished despite request made by the workmen through their application, dated 12th May, 1965, 10 per cent of the total amount should be added back. It has been conceded on behalf of the management that the sum of Rs 475 related to the wages for the previous year. But so far as the amount of Bonus for the previous and the arrears said to have been paid to the clerical staff under the Wage Board agreement the claim put forward on behalf of the workmen has been strongly refuted and I think rightly. The records of the management do not show that Bonus paid for the previous year had been included in this item. There is further no proof that a sum of Rs 1,00,000 or so had been paid to the clerical staff under the Wage Board agreement. According to the statement of MW(R) 9, Shri N.M. Jain, Factory Manager, the amount of arrears paid to about 25 clerks during the year in question did not exceed Rs 3,000 or so. I, therefore, direct that only a sum of Rs 475 pertaining to the wages for the past year should be added back under this head and the workmen having simply failed to make out any case for the rest of the amounts claimed by them, there is no question of 10 per cent of the total amount being added back on account of any malafide or wrong entries.

4. *Estimated Excess in Interest (Rs 1,70,742).*—As per the statement of interest paid for the year ended 30th June, 1963, Exhibit A.W. 6/9, a sum of Rs 1,70,742 had been paid to the United Commercial Bank and other parties by way of interest during the said year. The case for the workmen is that the amounts mentioned in the statement are false and exaggerated. It has been urged that in the first instance the T.I.T. Mills had only current accounts with these Institutions and no interest was payable. It has further been argued that the United Commercial Bank to whom the major portion of the interest is alleged to have been paid was a concern of the Birlas and the rate of interest (7 per cent) as per certificate M.W. (R) 8/5 of the Bank was excessive. I do not find any force in the argument advanced on behalf of the workmen. The mere fact that the United Commercial Bank was a concern of the Birlas is no ground to deprive it of the right to charge interest on the loans advanced during the year to the T.I.T. Mills, Bhiwani. The workmen have brought no evidence on record to show that the other banks were charging interest at a lesser rate during those days. The claim of the workmen for adding back the sum of Rs 52,075 as estimated excess in interest is, therefore, not sustainable.

5. *Subsidy for Workshop (Rs 1,00,000) and Tenements (Rs 37,950).*—It has come in evidence that the Central Government gave a subsidy of Rs 1,00,000 to the management for the construction of the workshop and the State Government provided Rs 37,950 under the Industrial Housing Scheme for construction of Tenements for the workmen. The learned representative of the workmen have argued that both were items of income earned by the management during the relevant year and should, therefore, be added back for the purpose of Bonus calculation. The contention, I am afraid, is altogether devoid of force. By no stretch of imagination either of these amounts can be considered as income related to the efforts or contribution made by the workmen. The entire amounts had to be spent for the purpose mentioned above in accordance with the schemes sanctioned by the Government and as stated on behalf of the management the amounts had been utilised along with additional expenditure incurred for the purpose. There is thus no question of these amounts being added back.

6. *Profit on Sale of Vehicles.*—The learned representatives of the workmen contends that vehicles of which the written down value was Rs 24,599.68 as per statement, Exhibit A-1 had been sold by the management for Rs 46,332 thereby earning a profit of Rs 21,737. There is, however, no evidence to substantiate this contention which is disputed by the management. According to the management the surplus amount of the sale of the fixed assets was only Rs 8,050 which being an item unrelated to the efforts of the workmen could not be added back and the representatives of the workmen have in a way conceded the above contention raised on behalf of the management. There is another item of Rs 8,088 pertaining to unspent liability written back and no good case for adding back this amount either has been made out by the workmen.

7. *Bad Debts Written of Rs. 107.*—The workmen have made out no case for adding back this amount which has rightly been treated as revenue loss by the management.

8. *Fine fund not accounted for.*—The case for the workmen is that a sum of Rs 18,535.94 realised by the management by way of fine from the workmen during the year has not been duly accounted for and therefore this amount deserves to be added back. On the other hand, it has been argued on behalf of the management that this amount along with other sums of similar nature totaling Rs 56,767.86 had been spent for the welfare of the workmen and my attention has been drawn to the details of the expenses given in Exhibit A.W. 6/6. From the perusal of the relevant statement A.W. 6/6 and P.W. 6/13, I find that the amount in question has been fully accounted for and as such it can not be added back.

9. *Charity Donations.*—According to the workmen a sum of Rs 4,520 shown expenses during the year by the management on account of charity and donations has to be added back. Evidence on record, however, shows that only a sum of Rs 1,738 was paid towards the National Defence Fund which was entirely in the discretion of the management and the workmen had no say in the matter. This amount should, therefore, be added back.

10. *Profit on Sale of Machines.*—It has been urged that the management had made a profit of Rs 7,890 on the sale of old machines and this amount should, therefore, be added back. I have not been referred to any satisfactory evidence on this point. Even if it be assumed for the sake of argument that any profits had been made by the management the sum being not related to any efforts of the workmen can not be added back to enhance the amount of profits available for purpose of Bonus.

11. *Estimated Excess in manufacturing Expenses.*—As per the statement Exhibit A.W. 6/1 the total expenses under this head have been shown as Rs 10,41,135 of which details furnished are as under :—

	Rs
Coal and Electricity	.. 10,33,069.00
Canal Water	.. 6,350.00
Cloth Finishing Charges	.. 1,716.00
	<u>10,41,135.00</u>

It has been argued on behalf of the workmen that in answer to certain interrogatories made in this behalf the management had furnished contradictory statements to the T.I.T. Karamchari Sangh and the Mazdoor Sabha who have been representing the workmen from the very beginning. In reply to the application dated 12th May, 1965 of the T.I.T. Karamchari Sangh, the expenditure of 10,33,069.00 was shown as Fuel and Power expenses while in reply to the application of the Mazdoor Sabha it was shown merely as Coal expenses. It has further been argued that fuel and Power had been supplied by the T.I.T. Mills to its Sister concerns also and the present workmen can not be burdened with the expenses incurred for the other concerns. I am afraid, the contention has no force and does not in any way advance the claim made on behalf of the workmen. The discrepancy pointed out above is not material. There is a specific denial of the management in the testimony of Shri Narain Parshad Finance Officer that no power was supplied to the sister concerns as alleged on behalf of the workmen. The T.I.T. Mills by itself is a very big concern with about 3,000 workers working in a large number of departments in three shifts. The mills had its own power generating engine but the working of the Mills, depended to a great extent on the supply of the power by the then Punjab Electricity Board; Electricity to the residential quarters had been supplied mostly free of charge. In the circumstances, this item of expenditure of which the details are given by the management in Exhibit A.W. 6/1 read with the detail of coal account on record does not call for any reduction as claimed by the workmen.

12. *Estimated Excess in Selling Expenses.*—The details of selling expenses for the year ended 30th June, 1963 given by the management in the statement Exhibit A.W. 6/3 are as under :—

	Rs.
Commission on cloth and yarn	.. 2,55,353.00
Brokerage on cloth, yarn and waste	.. 1,30,393.00
Cloth and Yarn expenses (Freight, Octroi, Labour charges etc.)	.. 1,65,156.00
Samples	.. 1,749.00
	<u>5,52,651.00</u>

It has been contended by the learned representatives of the workmen that the above figures are exaggerated and, therefore, a sum of Rs 55,235.00 should be added back under this head. I have also been referred to the statement of W.W. (R) 2 Shri Sagar Chand Jain who has deposed that the Sales had been conducted through special agencies of the Birlas in different markets who were mostly relations of the management people and they were paid commission over and above the market rates, but there is no evidence worth consideration to substantiate this allegation and in the absence of satisfactory evidence with sufficient data the claim of the workmen for adding back this amount or part thereof does not appear to well-founded.

13. *Capital Nature amounts in Building repairs.*—The details of the building repairs given by the management in the statement Exhibit A.W. 6/2 are as under :—

	Rs
For the year 1962-63	
Stores	.. 7,648.83
Wages etc.	.. 43,879.40
	<u>51,528.23</u>

It has been urged on behalf of the workmen that about 50 per cent of this expenditure (Rs. 25,500) should be added back but no reasonable ground for doing so has been made out. It is a huge concern comprising of the main Factory Building including as many as 11 departments, workshops, godowns, office buildings, college and school buildings, hostels and canteens, residential quarters for workers and staff about 790 in number. Taking into consideration the number and the type of the buildings the expenditure of Rs 51,528.23 for annual repairs, white washing etc. could not be considered to be unreasonable so as to justify in reduction in this amount.

14. *Estimated excess in establishment and other expenses.* (Rs 2,58,721).—It has come in the statement of A.W. 6 Shri Narain Parshad that the management is running offices at Delhi, Bombay and Calcutta. As per the statement Exhibit A.W.6/7 the following details of the expenditure have been given under this head :—

	Rs
Delhi, Bombay and Calcutta Office expenses	.. 21,828
Drinking water	.. 3,504
Bank Commission	.. 29,982
Bharti Expenses	.. 5,170
Tractor Expenses	.. 3,786
Sales Tax and Central Sales Tax and Purchase Tax	.. 1,954
Postage, Telegram and Telephones	.. 29,181
Newspaper and Magazines	.. 1,413
Stationery and Printing	.. 23,374
Advertisement	.. 1,718
Refreshment to guest and customers	.. 14,744
Conveyance Motor Car etc.	.. 17,644
Travelling expenses	.. 66,616
Uniforms to Jamadars and Peons	.. 3,996
Furniture Repairs	.. 2,036
Fees and Taxes	.. 5,050
Auditor's Fees	.. 4,301
Miscellaneous expenses such as Legal Subscription to Association and Stores, Bulbs, Tube lights etc.	.. 22,424
	<hr/> 2,58,721 <hr/>

The workmen have claimed that Rs 50,000 out of this amount should be added back which according to them represents the estimated excess in establishment and other expenses but their contention does not appear to be well founded. A perusal of the details of the expenses given above would no doubt then to show that some of the items are big enough particularly pertaining to travelling expenses (Rs 66,616), Delhi, Bombay, Calcutta offices 21,828, Refreshment to guests and customers 14,744, stationery and printing 23,374, postage, telegram, telephone 29,181, Misc. expenses 22,424. But taking into consideration the fact that it is a big concern running offices at three other places, Delhi, Calcutta, Bombay, besides Head office at Bhiwani. The expenses of the type mentioned above had to be incurred and the same cannot be held to be exaggerated and not allowable. The question of commercial necessity has not to be gone into in these proceedings. The amount involved or any part thereof can not consequently be added back as urged on behalf of the workmen. It will not be out of place to mention here that this and some other items discussed in paras Nos. 3, 4, 6, 8, 9, 10, 11, 12, and 13 and had not even been pressed at the time of the arguments when the earlier award was made on 25th November, 1967.

15. *Capital Nature amount included in Raw Material, Store and Spare Parts.*—Before the remand of the case the management had filed the balance sheet, income and expenditure account for the year ended 30th June, 1968 wherein the amount of Rs 1,22,84,156.00 had been mentioned against the item of "Raw Material Stores and

Spare Parts". The workmen had asked for the break-up figures of the said amount particularly in respect of the spare parts and the value of each item of the list showing also the date of purchase and use. In its reply, dated 12th July, 1965, the management had given the break-up figures as under,—*vide* statement Exhibit A.W. 6/15 :—

Cotton	..	98,54,759.00
Store and Spare parts (Details of spare parts attached)	..	24,15,599.00
Outside yarn	..	13,788.00
Total		<u>1,22,84,156.00</u>

The above statement was accompanied by two annexures :

- (1) List of store spare parts consumed from 1st July, 1962 to 30th June, 1963 with their costs amounting to Rs 2,02,882.47 in all.
- (2) Details of cotton account for the said year of the value of Rs 98,54,769.76 including the Purchase Tax.

After the remand of the case, the management has brought on record monthwise lists of spare parts consumed during the year Ex. M.W. (R)7/7 and the relevant issue registers have also been produced which are Ex. M.W. 7/8 to Ex. M.W. 7/19. Shri Ram Lal Rajgariha, Joint Store Keeper, has made a detailed statement. The contention raised on behalf of the workmen is that the amount of Rs 6,04,849 included in this expenditure is of capital nature and should, therefore, be added back. On the other hand, it has been urged on behalf of the management that full details of the store and spare parts consumed during the year having been given monthwise, the whole of the amount should be allowed and I have been referred to the statement of Shri Ram Lal Rajgariha, M.W. (R)7. His statement read with the lists of the store spare parts consumed during the year Ex. M.W. (R)7/7 and the entries in the relevant registers which had been prepared monthwise and also the statement Ex. A.W. 6/15 produced earlier giving the break up figures of raw material store and spare parts and the annexures attached thereto referred to above, is sufficient to discharge this burden which lay upon the management to justify the above claim. The lists of the store spare parts prepared by Shri Rajgariha are exhaustive and he has given the price of each and every item. Nothing worth consideration has been urged on behalf of the workmen to challenge the price of any one of the said items of the store and spare parts. The learned representative of the workmen have argued that Shri Rajgariha has not been able to furnish the exact date of purchase and use of the items in question. But that by itself is not sufficient to reject the claim of the management or any part of it. The items of store spare parts consumed during the year 1962-63 of which the lists, Ex. M.W.(R)7/7 covers 46 pages run into more than a thousand and obviously it was not possible to collect the date of the purchase of each one of these items. Above all the workmen had asked for the break-up figures of the spare parts in particular and they have failed to show as to which items of the expenditure incurred in this behalf were of capital nature. So far as the raw material is concerned nothing worth consideration has been urged to question the genuineness of the amount involved. So in view of the facts discussed above which stand un rebutted. The claim of the workmen for adding back any amount under this head is not justified.

16. That disposes of all the items which were sought to be further added back by the workmen. Next comes the question of certain prior charges claimed by the management, which, as would be clear from the perusal of the bonus calculation charts submitted before and after the remand of the case are as under :—

(a) Normal National Depreciation for the year 1962-63 as per statements Ex. A-1 to A-9 (Rs 5,10,062.00)

According to the contention raised on behalf of the workmen only a sum of Rs 2,84,113.00 should be allowed to the management under this head. It has been argued that depreciation had been claimed in respect of the assets of the College and Higher Secondary School also which are not connected with the working of the Mills and the workmen have no concern with the same. This contention raised on behalf of the workmen has already been repelled on the simple and obvious ground that the T.I.T. Mills and the College and School run along with the Mills under the Charitable Trust are in fact one unit. The assets of the College and the School cannot be separated for calculating the income and expenditure of the Technological Institute of Textiles Bhiwani for the purposes of calculating bonus due to the workmen for the year in question. It may be stated here that this item had not been disputed on behalf of the workmen earlier as would be clear from the perusal of the award, dated 25th November, 1967. It has, therefore, got to be allowed as a Prior Charge claimed by the management.

(b) Income Tax on Rs 22,26,080.00

The management has claimed a sum of Rs 12,20,290 by way of Income Tax as a Prior Charge which has been strongly opposed on behalf of the workmen. The learned representative of the management has argued that the amount of Income Tax which was leviable for the year 1962-63 had to be deducted first from the gross profits before determining the allocable surplus for purpose of calculating Bonus due to the workmen. It is further argued that it is the normal national Income Tax that has to be taken into account and not the actual amount of tax which may have to be paid for the particular assessment year. I have also been referred to a number

of authorities on this point reported as 1959-I-LLJ-644, 1958-I-LLJ-239, 1963-I-LLJ-120, 1960-II-LLJ-241, 1961-I-LLJ-512, 22-FJR-252, which have, however, no application to the instant case taking into consideration its peculiar facts. It is common ground between the parties that the Technological Institute of Textiles, Bhiwani along with the College and the School which form part and partial of it, as already discussed, are run by a charitable Trust called the Birla Education Trust, Pilani, and as such, it is totally exempted from the payment of Income Tax, as laid down under section 11 of the Income Tax Act, 1961. The learned representative of the management contends that the exemption was only a qualified one as Income Tax returns had to be submitted and the exemption could be claimed only on the fulfilment of certain conditions. This argument even does not in any way advance the claim put forward on behalf of the management for treating this item as a prior charge. The facts on record speak for themselves. From the testimony of Shri Atma Ram Chaudhary, Assistant Finance Officer, Pilani, read with the documents produced by him, namely, the Income Tax return for the relevant year, Ex. W.W.(R)1/3, letter dated July 21, 1962 regarding refund of Income Tax for the period ended 30th June, 1961 Ex. W.W.(R) 1/4, along with its enclosures, copy of the order of the Income Tax Officer, Calcutta, dated 4th September, 1965, Ex. W.W.(R)1/1, copy of the order dated 10th September, 1965 of the Income Tax Officer, Calcutta, Ex. W.W. (R)1/2, it is clear beyond any shadow of doubt that total exemption from the payment of Income Tax for the reason aforesaid had been claimed and ultimately granted by the Income Tax authorities. The other witnesses examined by the management, Shri Narala Parshad, Finance Officer, Shri Parshotam Jalan, Accountant and Shri Nathu Mal Jain, Factory Manager, in particular, have not been able to refute successfully the claim put forward on behalf of the workmen that the respondent Mills was totally exempted from the payment of Income Tax. Not an iota of evidence has been brought on record to indicate that this Mills had ever been assessed to Income Tax as otherwise there must have been entries in this behalf in the account books of the Mills as also in the account books maintained by the Birla Education Trust. The law is very clear on the point and reference may usefully be made to an authority of our own High Court in case State of Haryana and others *versus* workmen of Messrs Haryana Roadways (FJR Vol. 38, part 15, page 393) wherein it has been held that "Where the employer is not liable to pay any income tax, he will not be entitled to deduct any amount from the gross profits on account of income tax for the purpose of computing available surplus". The above view finds further support in 1957-I-C.R.-348, 1960-I.C.R.-110, 1965-II-LLJ-99, 1960-II-LLJ-640, 1955-I-LLJ-308, cited by the learned representative of the workmen. So, taking into consideration the particular facts of the instant case and the proposition of law discussed above the amount of Income Tax claimed by the management cannot be allowed as a prior charge.

(c) Surplus on Sales of fixed assets (Rs 8,050) and unspent liabilities written back (Rs 8,088)

Borth these amounts have been claimed as prior charges by the management. The first item has been conceded on behalf of the workmen and the second item has also got to be allowed on the obvious ground that the liabilities which had remained unspent had to be written back.

(d) Interest on Rs 79,68,323 capital employed by the Birla Education Trust during the year in question

As per the statement 'B' filed by the management exhibited as 'L' the Birla Education Trust had invested a fixed capital of Rs 60,00,000 and the management has claimed interest on this amount at the rate of 6 per cent which comes to Rs 3,60,000 which is not disputed on behalf of the workmen. The management has claimed interest at 6 per cent on a further sum of Rs 19,68,323 alleged to have been advanced by the Birla Education Trust, Pilani on different dates during the year in question as per Ex. 'L' referred to above. The workmen have strongly disputed this claim on the ground that this amount did not form part of the working capital nor was their evidence to show that it had actually been utilised as such. The learned representative of the management has tried to refute this contention and referred me to the particulars given in Ex. 'L', detailed accounts of the T.I.T. Mills with the Birla Education Trust, Pilani, have been produced along with the balance sheet and a perusal of these accounts read with the statement Ex. 'L' leaves no doubt whatever including with advances amounting to Rs 19,68,323 had been made by the Trust to the Mills during the relevant year and the same form part of the working capital throughout the year. Shri Narain Parshad, Finance Officer, coming into the witness box as M.W. (R)1 has made a categorical statement that this amount which form part of the working capital was actually used throughout the year. The witness was subjected to cross-examine on the point but nothing worth consideration came out to support the contention raised on behalf of the workmen that the amount in question did not form part of the working capital and that it was not proved to have been used as such. Under the law the management is entitled to claim interest on such amounts which form part of the working capital and the rate of interest claimed by the management is permissible under law. In view of the facts discussed above, I would allow the entire amounts of interest claimed by the management on the total capital of Rs 79,68,323 which comes to Rs 4,78,099.

(e) Interest at 4 per cent on reserves and other amounts employed in business as working capital during the year (Rs 2,39,611.00)

The case for the management is that reserves and other amounts totaling Rs 59,90,282 had been employed as working capital during the year 1962-63 the details of which have been given in Ex. L.1. The workmen have strongly disputed this claim. The law is clear on the point. The management is entitled to claim a return on the reserves and other amounts employed in business as working capital during any particular year generally at 2 to 4 per cent subject, however to two important conditions, firstly, that the reserves and other amounts were available and, secondly, the same were actually utilised as working capital in the business. A number of authorities

have been cited on this point but it is needless to refer to them as the learned representatives of the parties are agreed upon the above principle of law laid down in these authorities. The availability of the amount in question by way of reserves and other funds mentioned above is proved from the relevant record produced by the management as per the detailed statement, Ex. L-1. Shri Narain Parshad, Finance Officer, M.W. (R) has made a positive statement that this amount was actually utilised as working capital throughout the year. This amount mentioned in Ex. L-1 had been utilised by the T.I.T. Mills throughout the year 1962-63. His statement on oath on this point has gone almost unchallenged and from his cross-examination as already pointed out in connection with another item of return on capital, nothing worth consideration has come out to discredit the claim of the management. However, taking into consideration the fact that the entire evidence with full details and data regarding the utilisation of this amount as working capital has since not been brought on the record. I think it would be proper if the management is allowed interest at only 2 per cent as a prior charge on the said amount which would come to Rs 1,19,805. It would not be out of place to mention here that although the entire claim of reserves and other amount used as capital during the year has now been contested and admission had been made on their behalf at the time of making of the award dated 25th November, 1967 that at least the amount of Rs 11,44,695 was proved to have been used as working capital throughout the year.

(f) Rehabilitation Reserves

This is the most hotly contested item which has been claimed as a prior charge by the management. The evidence produced before the remand of the case consisted mainly of the statement of R.W. 1, Shri K. L. Munga, Estimator in a firm of Architect at Delhi but after the remand of the case the management has brought on record considerable amount of evidence, both oral as well as documentary, which has already been referred to above. As per the bonus calculation chart now filed by the management a sum of Rs 1,24,78,207 has been claimed under this head while previously the amount claimed was only Rs 5,65,491. Before going into the evidence on record with regard to this particular item it would be worth while to discuss the case law on the point.

The learned representative of the workmen have cited a number of authorities on this point but for the purpose of instant case it would be sufficient to refer to a judgement of the Supreme Court in the case of Binny Ltd. and their workmen wherein their Lordships have been pleased to set out the rule of law governing rehabilitation claim by a management as under :—

“It must be noted that rehabilitation reserve is a substantial item which goes to reduce the available surplus and as a result affects the right of the employees to receive the bonus, hence the employer will have to place all relevant materials and the Tribunal will have to scrutinize them carefully and to be satisfied that the claim is justified. It is no doubt true that it is but proper in the larger interest of the industry as well as the employees that proper rehabilitation reserve should be built up taking into consideration the increase in price in plant and machinery which has to be replaced at a future date and by determination of multiplier and its divisor. It is also clear from the decisions of this Court that if a company has no scheme for rehabilitation, then, of course, its claim on that head must be rejected,—(*vide* Azam Jahi Mills, Ltd. *versus* their workmen) 1967-II-LLJ-18. Further, since it is the employer who seeks replacement costs, it is for him to satisfy the Tribunal as to what will be the overall cost of replacement and in doing so it is he who has to discharge this burden by adducing proper evidence and giving other party an opportunity to test the correctness of that evidence by cross-examination. (*vide* National Engineering Industries Ltd. *versus* its workmen) (1968-I-LLJ-816) (1968) (i) S.C.R. 779”.

“It is also now well settled that in determining the claim of the employer for rehabilitation, two factors are essential to be ascertained, namely, (1) the multiplier, and that has to be done by reference to the purchase price of the machinery and the price which has to be paid for rehabilitation or replacement; and (2) the determination of the divisor and that has to be done by deciding the probable life of the machinery. (*vide* the Honorary Secretary South India Mills owners Association and others *versus* the Secretary, Goimbatore District Textile Workers' Union (1962-I-LLJ-223)(1962) Supp. 2, S.C.R. 926, and Gammon Dunkerley and Co. Ltd., and another *versus* Their workmen, A.I.R. 1971 S.C. 2567).

“It must be emphasised that in dealing with the claim of an employer for rehabilitation, as pointed out earlier, the onus of proof is on the employer. He has to prove the price of the plant and machinery, its age, the period during which it requires replacement the cost of replacement, the amount standing in the Debentures and Reserve Funds and to what extent the funds at its disposal would meet the cost of replacement. If the employer fails to lead satisfactory evidence on these points the result will be that the claim for rehabilitation will have to be totally rejected.”

The learned representative of the management has also cited some authorities and from the perusal of these authorities and the case law cited on behalf of the workmen, it is abundantly clear that the burden is always on the employer to establish his claim for rehabilitation by bringing on record cogent and convincing evidence in the light of the observations of their Lordships in the case of Binny Ltd., and its workmen referred to above. Now, it has to be seen how far the management in the instant case has succeeded in

discharging this burden which lay heavily upon it. As already pointed out, the management has brought on record considerable evidence, both oral as well as documentary, in its attempt to discharge this burden and my attention has been drawn to the testimony of M.W. (R) 1 to M.W. (R) 9 and different charts and statements prepared and proved by them which include Ex. M.W. (R) 2/1, Ex. M.W. (R) 3/1, Ex. M.W. (R) 3/2, Ex. M.W. (R) 4/1, Ex. M.W. (R) 5/1, showing the number of machines in the different departments of the mills and their expected future life, Ex. M.W. (R) 6/1 a detailed report relating to the assessment of the present condition of the factory building, residential quarters for workmen and staff belonging to the T.I.T. Mills and replacement costs in 1962-63 prepared on the basis of the inspections held on May 15, 1972, Ex. M.W. (R) 7/1 file containing quotations invited from the different manufacturers of machines (two quotations exhibited) statements showing prices of machines in 1962-, 1963, 1964, 1965 with the names of the suppliers Ex. M.W. (R) 7/2, details of machines installed during the period from 1954 to 1961 Ex. M.W. (R) 7/3, details of the machines started before June, 1954 Ex. M.W. (R) 7/4, quotations of M/s Associated Textiles Engineering Bombay of 23rd December, 1966, Ex. M.W. (R) 7/5, statement of amount required for rehabilitation for plant and machinery in the year 1962-63, M.W. (R) 8/1, statement of amount for rehabilitation of plant and machinery for 1962-63 including figures for the period from 1942 to 1954 Ex. M.W. (R) 8/2, summary of block additions from 1951, 1952 to 1963 Ex. M.W. (R) 8/3, additions to buildings and plant after 1962-63, Ex. M.W. (R) 8/7, statement of block additions from 1961-62 from 1970-71, Ex. M.W. (R) 8/8, statement of amount required for rehabilitation of factory and office building store and canteen etc. for the year 1962-63 Ex. M.W. (R) 9/1, statement of amount required for rehabilitation of residential buildings for the year 1962-63, Ex. M.W. (R) 9/9, statement of machines with their year of installation as on 1st April, 1964, statement of building with their replacement costs, statement as showing the amount of rehabilitation reserves required to be provided for year, produced earlier but now got exhibited as M.W. (R) 9/3 to M.W. (R) 9/5 respectively in the statement of Shri N. M. Jain, Factory Manager.

On the strength of the above-evidence it has been contended by the learned representative of the management that the rehabilitation claim of Rs 1,24,78,207 as per the bonus calculation chart submitted in the case is fully justified and should be allowed as a prior charge to ascertain the allocable surplus or purposes of bonus. The learned representatives of the workmen have vehemently refuted the above contention on more than one ground which are forceful indeed. To start with, the management has led so evidence to show that there had ever been a scheme for rehabilitation in the Mills. The solitary and rather perfunctory statement made by Shri N. M. Jain, Factory Manager, coming into the witness box as N.W. (R) 9 that replacement of buildings and machineries is made whenever necessary can hardly take the place of proof of the existence of a scheme rehabilitation in the light of the case law discussed above nor can it be ascertained from this brief and oral assertion as to what was the nature of the scheme of rehabilitation, if any, and how it had been worked in the past.

Then, the evidence with regard to the determination of the two important factors, namely, the multiplier and the divisor which is necessary to ascertain the claim for rehabilitation is more or less lacking in the instant case. No evidence whatever has been led to show what was the purchase price of each item of the plant and machinery involved. In order to determine the cost of replacement the price level prevailing in the bonus year has to be found out but the management has led no evidence worth consideration to show what was the price of the plant and machineries in 1962-63 which require rehabilitation. My attention has been drawn to one or two quotations referred to in the statement of Shri Ram Lal Rajgaria M.W. (R) 7 which appear to have been selected at random. The relevant communication inviting these or other quotations, if any, and documents pertaining to the final deals have been withheld for purposes best known to the management. The evidence produced by the management with regard to the expected life of the plant and machinery concerned is also not sufficient and convincing. Reliance has been placed on the testimony of 4, 5 witnesses who are all employees in the mills and have filed statements in respect of machineries pertaining to different departments giving their approximate or expected life arbitrarily, unsupported by any document or literature from the suppliers concerned the workmen have also examined some witnesses who are employees in the mills and on the basis of their experience and knowledge have made different statements regarding the average age of various items of machineries. No reliance can safely be placed upon the interested testimony of the witnesses produced by the management.

There is still an other important factor which deserves consideration here. It was again for the management to prove that the funds at its disposal were not sufficient to meet the costs of replacement of the plant and machinery. The law is well settled. If funds in the form of depreciation provision and other liquid reserves are available the employer claiming provision for rehabilitation must utilise such funds in the first instance. But no attempt has been made by the management to discharge the burden of proof in this respect. It could thus appear that the management has hopelessly failed in adducing proper evidence to meet the requirements of law to justify its claim for the rehabilitation reserve for plant and machinery. It would be significant to note here that earlier the management had claimed rehabilitation reserves of only Rs 5,65,491 (Rs 1,35,268 for building),—vide Bonus Calculation Chart read with statement 'D' and the grounds of the appeal to the S. Court but now a claim of Rs 1,24,78,207 has been made as would be clear from the perusal of the bonus calculation chart which is fantastically high and deliberately been made to reduce the available surplus for purposes of bonus.

The rehabilitation claim for building no doubt stands on a different footing. In the first instance this claim to some extent has been conceded on behalf of the workmen and in the bonus calculation chart a sum of Rs 32,968 has been allowed for building rehabilitation. Then the management has led some evidence to support the claim which although not wholly acceptable may carry some weight. Shri Teja Singh M.W.(R)6 an architect and chartered Engineer of New Delhi has produced a report relating to the assessment of the present condition, replacement costs in 1963 and expected future life of the factory and non factory buildings of the Technological Institute of Textiles, Bhiwani prepared on the basis of his inspection of the building on 15th May, 1972 which is Ex. W.M. (R) 6/1. He has given the total replacement cost as Rs 64,56,048 which on the face of it appears to be abnormally high. He has not supported his findings or estimates with any authenticated data certified rates, etc. The cost of constructions per sq. ft. of each kind of building given in his report is rather high. Shri Rendhir Singh, Building Contractor W.M. (R) 6 examined by the workmen has given much lower rates. So, taking into consideration the number and the nature of the factory and non-factory building in the Mills, I think it would be fair and reasonable if the management is allowed the amount of Rs 1,35,268 originally claimed as rehabilitation reserve for buildings.

It is quite understandable that the parties have given wrong calculations in the bonus calculation charts produced by them. The attempt of the management has been to reduce the available surplus which has been shown in the deficit. The workmen on the other hand have tried to enhance this amount so as to make out a claim for 100 % bonus in terms of their basic wages. The contentions raised on both sides are manifestly wrong and as such have to be repudiated. In the light of my above observations and findings the available surplus would be as given under :—

	Rs	Rs
Excess of Income over expenditure for the year 1962-63		13,07,323.00
Add—Provision for contingencies	1,75,000.00	
Depreciation	4,84,113.00	
Development Rebate	2,27,663.00	
Amount pertaining to previous year	43,109.00	9,34,885.00
		<u>28,42,218.00</u>
Add also—Provision for purchase of export quota		1,39,094.00
Wages for the past year		475.00
Donations		1,738.00
		<u>23,83,529.00</u>
Less—Normal, National, Depreciation for the year 1962-63		5,10,062.00
Return on Rs 19,68,323 capital employed by Birla Education Trust during the year at 6% plus Rs 60,00,000 fixed account		4,78,099.00
Interest at 2% on Rs 59,90,282 on reserves and other amounts employed in business as working capital during the year 1962-63		1,19,805.00
Surplus on sales of fixed assets		8,050.00
Unspent liabilities written back		8,088.00
Rehabilitation reserves to be provided during the year		<u>1,35,268.00</u>
Total		<u>12,59,372.00</u>
Available surplus—		11,24,202.00

Now, taking the workers share at 60% has been held in some authorities cited in the case, the balance distributable among them would come to Rs 6,54,521.00. The parties are agreed that the basic wages paid to the workmen during the year in question amounted to Rs 18,29,860. No attempt has been made on either side to prove the total wages which the workmen had earned during the year. The amount of Rs 6,54,521.00 which

has been found to be payable as bonus to the workmen would come to 35% of their basic wages as stated above. The issue is accordingly held in favour of the workmen and they are entitled to payment of bonus for the year, 1962-63, equal to 35% of the basic wages earned by each one of them and the management is directed to make the payment accordingly. The amounts so payable shall, however, not exceed their consolidated wages for 4 months as claimed by them. The management would, of course, be entitled to deduct the amounts which might have been paid as bonus to the workmen for this year in accordance with the settlement referred to above or otherwise. The amount of bonus due under the present award shall be paid to the workmen within two months of the publication of the same in the State Gazette. In the circumstances, there shall be no order as to costs.

Dated the 25th August, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 909, dated 25th August, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 25th August, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

S. N. BHANOT,
Commissioner for Labour and Employment,
and Secretary to Government, Haryana.

IRRIGATION DEPARTMENT

The 28th August, 1972

No. 12594/2L.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at public expense, for a public purpose, namely, for construction of colony for maintenance staff opposite RD 38,559 to RD 38,777, right Bahel Distributary and switch room and boundary road opposite RD 38,472 to RD 38,731, left Bahel Distributary at Pump House Number VII in village Bidhnol in Tehsil Loharu, District Hissar, it is hereby notified that the land in the locality specified below is to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the Officers of Irrigation Department for the time being engaged in the undertaking along with their servants and workmen, etc., to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Further whereas the Governor of Haryana is satisfied that the land is required for the construction of Bahel Distributary which is of very urgent importance within the meaning of clause (c) of sub-section (2) of section 17 of the said Act and whereas the Governor Haryana is of the opinion that the provisions of sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) section 17 of the said Act that the provisions of section 5-A of the said Act shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Village	Area in acres	Boundary
Hissar	Loharu	Bidhnol	0.559	A strip of land 2,591 in length varying in width on left side and varying in length and width on right side of Pump House Number VII lying generally in direction of North West and from East to West as demarcated at site and as shown on the plan, passing through Khasra No. 208

By Order of the Governor of Haryana,

R. S. MEHRA,

Superintending Engineer,
Loharu Canal Circle, Rohtak.